

Occurrence Report

Waste Isolation Pilot Plant

(Name of Facility)

Nuclear Waste Operations/Disposal

(Facility Function)

Carlsbad Area Office

Westinghouse TRU Solutions, LLC

(Laboratory, Site, or Organization)

Name: XXXXX

Title: TECHNICAL COORDINATOR

Telephone No.: (505) 234-XXX

(Facility Manager/Designee)

Name: XXXXX

Title:

Telephone No.: (505) 234-XXX

(Originator/Transmitter)

Name:

Date:

(Authorized Classifier (AC))

1. Occurrence Report Number: ALO--WTS-WIPP-2001-0004

NMED NOTICE OF VIOLATION - WIPP HAZARDOUS WASTE FACILITY PERMIT

2. Report Type and Date: Final

| | Date | Time |
|------------------------|------------|-------------|
| Notification: | 10/11/2001 | 12:58 (MTZ) |
| Initial Update: | 11/27/2001 | 10:22 (MTZ) |
| Latest Update: | 12/05/2001 | 13:52 (MTZ) |
| Final: | 03/27/2002 | 09:44 (MTZ) |

3. Occurrence Category: Off-Normal

4. Number of Occurrences: 1

Original OR:

5. Division or Project: WTS / WASTE ISOLATION PILOT PLANT

6. Secretarial Office: EM - Environmental Management

7. System, Bldg., or Equipment: n/a

8. UCNI?: No

9. Plant Area: n/a

10. Date and Time Discovered: 09/28/2001 12:00 (MTZ)

11. Date and Time Categorized: 10/11/2001 12:00 (MTZ)

12. DOE Notification:

13. Other Notifications:

| Date | Time | Person Notified | Organization |
|------------|-------------|-----------------|--------------|
| 10/11/2001 | 12:15 (MTZ) | FACILITY REP. | CBFO |

14. Subject or Title of Occurrence:

NMED NOTICE OF VIOLATION - WIPP HAZARDOUS WASTE FACILITY PERMIT

15. Nature of Occurrence:

02) Environmental

E. Environmental Agreement/Compliance Activities

16. Description of Occurrence:

The Carlsbad Field Office (CBFO) and the WIPP M&O Contractor received a formal notice of violation of the WIPP Hazardous Waste Facility Permit. The New Mexico Environment Department (NMED) informed the permittees that several permit modifications submitted and implemented as Class 1 modifications failed to meet the requirements for Class 1 modifications of the Permit. The subject modifications all relate to characterization of TRU waste at generator sites. They are: 1) Use of composited headspace gas data and to allow up to 20 composited samples; 2) Establishing safety conditions for visual examination; 3) Requirements for sampling through the existing filter vent hole.

The NMED further stated that "due to the improper implementation of Class 1 modifications of the Permit, the Permittees failed to manage, store and dispose of waste as required."

17. Operating Conditions of Facility at Time of Occurrence:

Routine TRU waste receipt and disposal activities.

18. Activity Category:

03 - Normal Operations

19. Immediate Actions Taken and Results:

Formal correspondence dated 9/24/01 from NMED requires the Permittee to correct the noncompliance in accordance with the following Schedule for Completion:

1) Effective 9/24/01, the Permittees are directed to comply with the original Permit conditions for the characterization of waste, and may not continue to use or implement the procedures previously submitted as Class 1 modifications that have been rejected.

2) From 9/24/01 until 11/27/01, the Permittees may manage, store, and dispose of waste which was characterized prior to 9/24/01 using the procedures previously submitted as the rejected Class 1 modifications.

3) After 11/27/01, the Permittee shall comply with all requirements of the Permit as the Permit exists after that date.

CBFO has submitted a formal response to the NMED, and further discussions are on-going.

20. Direct Cause:

6) Management Problem

F. Other Management Problem

21. Contributing Cause(s):**22. Root Cause:**

6) Management Problem

E. Policy Not Adequately Defined, Disseminated, or Enforced

23. Description of Cause:

ROOT CAUSE: (Policy not adequately defined) The permit was submitted and approved with wording that is not definitive for determining the proper Class for a proposed modification. This allows CBFO and WTS to make an interpretation contrary to that of the NMED.

DIRECT CAUSE: Failure of CBFO and WTS management to adequately consult with the NMED prior to implementing permit changes which are subject to differing interpretations as noted in the Root Cause.

24. Evaluation (by Facility Manager/Designee):

UPDATE 11-27-01:

CBFO and WTS are in compliance with the requirements imposed by NMED as noted in Block 19, and there is no immediate impact on receipt and through-put of TRU waste.

CBFO and WTS have clearly classified the desired permit modifications as Class 2 modifications and have submitted them to NMED for consideration. NMED has indicated they will make a determination and ruling on the resubmitted modifications in the immediate future.

If the proposed changes are not approved as Class 2 modifications, future through-put of TRU waste may be slowed and anticipated cost savings associated with waste characterization at generator sites will not

be realized.

This ORPS report will not be submitted as a final report until NMED has made their ruling and the effect of that ruling has been evaluated by CBFO and WTS.

UPDATE / FINAL 12-5-01:

Effective November 27, 2001, NMED has approved (with minor changes) two of the three permit modification requests. Use of composited headspace gas data and establishing criteria for sampling through the existing filter vent hole have been approved. NMED has denied item 2 of block 16, (Establishing safety conditions for visual examination) stating that "...it was sufficiently vague as to require additional clarification before modifying the permit to incorporate the change."

In providing their reasoning for denial of the one item, NMED also stated: "The apparent, and commendable, intent of (Item 2) was to offer generator sites certain flexibility with respect to containers undergoing visual examination such that containers deemed "unsafe" would not need to be opened".

CBFO and WTS will discuss the issue of the denied modification with NMED, clarify the language appropriately, and resubmit the request.

25. Is Further Evaluation Required?: No

26. Corrective Actions

(* = Date added/revised since final report was approved.)

1. CBFO and WTS have consulted with NMED to clarify NMED's expectations in regard to future modification requests. As a result, more detailed technical "pre-submittal" discussions between the parties will be the norm.

| | |
|---|------------------------------------|
| Target Completion Date: 12/14/2001 | Completion Date: 12/04/2001 |
|---|------------------------------------|

27. Impact on Environment, Safety and Health:

NONE

28. Programmatic Impact:

NONE

29. Impact on Codes and Standards:

NONE

30. Lessons Learned:

Where potential differences with the customer may surface, exhaustive consultation and discussion prior to taking final actions can be cost effective.

31. Similar Occurrence Report Numbers:

1. NONE

32. User-defined Field #1:**33. User-defined Field #2:****34. DOE Facility Representative Input:**

Immediate actions taken by the DOE-CBFO were timely and the results were adequate. Process improvements by CBFO and the M&OC with New Mexico Environment Department (NMED) include consultation ("pre-submittal") and discussions prior to implementing permit changes which should preclude recurrence of compliance orders resulting from differing permit interpretations.

Entered by: XXXXX

Date: 03/27/2002

35. DOE Program Manager Input:**36. Approvals:**

Approved by: XXXXX, Facility Manager/Designee

Date: 12/05/2001

Telephone No.: (505) 234-XXXX

Approved by: XXXXX, Facility Representative/Designee

Date: 03/27/2002

Telephone No.: (505) 234-XXXX

Approved by: Approval delegated to FR

Date: 03/27/2002

Telephone No.:
